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June 20, 1991

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FEDERAL ELECTION COMMISSION  
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Re: MUR 2314 (National Republican Senatorial Committee  
and James L. Hagen, as Treasurer)

Dear Mr. Noble:

I am in receipt of your letter of May 14, 1991, which responded to the National Republican Senatorial Committee's ("NRSC") request of April 11, 1991, that the Commission defer consideration of MUR 2314 until the NRSC determined whether to appeal the decision of the United States District Court in FEC v. NRSC, Civ. A. No. 90-2055. You responded that the Commission was unable to grant an indefinite extension of time in MUR 2314 and directed that a respondent's brief be filed by June 24, 1991. As you are aware, since your receipt of our letter, the NRSC has in fact appealed the District Court's decision in FEC v. NRSC to the D.C. Circuit of the United States Court of Appeals, No. 91-5176 (D.C.Cir. filed June 4, 1991).

The central issues in FEC v. NRSC to be resolved upon appeal are the definition of "direction or control" contained in 11 C.F.R. § 110.6, whether 11 C.F.R. § 110.6 is consistent with the Act, and whether that provision, as interpreted by the Commission, is consistent with the First Amendment of the United States Constitution. Since these concerns are also essential to any discussion of MUR 2314, the resolution of these questions by the United States Court of Appeals will directly affect the ability of the NRSC to respond to the General Counsel's Brief in MUR 2314.

The appeal in FEC v. NRSC will be resolved in one of two ways. The Court may resolve the matter in favor of the Commission, in which case the NRSC may be expected to seek conciliation negotiations with the Commission. Alternatively, the Court may resolve the matter in favor of the NRSC, in which case the majority of the issues in MUR 2314 will be rendered moot.

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In these circumstances, it would not seem to be in the Commission's interest, nor that of our clients, to expend considerable time and resources debating whether the NRSC's conduct (the details of which are already a matter of record) met the standard for "direction or control" when the definition of that standard is simultaneously being determined by the Court of Appeals. Rather, it would be more efficient and prudent to await the resolution of FEC v. NRSC before pursuing this Matter further.

Therefore, due to the new posture of FEC v. NRSC, (No. 91-5176) I respectfully request that the Commission defer further consideration of this Matter pending the resolution of that case, at which time MUR 2314 will be ripe for resolution, and the NRSC will be able to respond meaningfully to the General Counsel's Brief. Again, we make this request without waiving our right to file a responsive brief in this Matter.

Thank you for your thoughtful consideration of this request.

Sincerely yours,

*Jan Baran /CHL*  
Jan Witold Baran

cc: Jay Velasquez, Esq.